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Attorneys for Defendant Christopher Finazzo

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA,	:	Cr. No. 10-457 (RRM)
	:	
-against-	:	
	:	
CHRISTOPHER FINAZZO,	:	
	:	
Defendant.	:	
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**OBJECTION TO THIRD ADDENDUM TO PRESENTENCE REPORT
OF CHRISTOPHER FINAZZO**

Christopher Finazzo, by his attorneys, Carter Ledyard & Milburn LLP, hereby objects to the Third Addendum to the Presentence Report (the "Third Addendum"), as follows:

1. Mr. Finazzo previously objected to the initial draft of the Presentence Report dated August 14, 2013 and the initial Addendum to the Presentence Report dated November 15, 2013 and incorporates those objections into his objections to the Third Addendum, to the extent the Third Addendum does not modify the initial draft of the Presentence Report.
2. The Third Addendum fails to address Mr. Finazzo's previous objections regarding the Probation Department's miscalculations concerning his financial condition. The arithmetic of the Probation Department continues to be wildly inaccurate. The Third Addendum

makes the astonishing assertion that Mr. Finazzo has a \$2 million net worth, which is objectively incorrect.

3. The Probation Department's claim that Mr. Finazzo currently owns assets of \$3,231,081.27 is simply mystifying.

4. The amount and status of Mr. Finazzo's assets are, as follows:

<u>Asset</u>	<u>Value</u> ¹	<u>Status</u> ²	<u>Comment</u>
Education Fund	\$ 35,419.63		F/B/O Mr. and Mrs. Finazzo's granddaughter
Bank Account	159,165.96	Seized/Litigation	50% Marital Asset subject to litigation
Securities Account	300,378.91	Seized	
Securities Account	262,526.35	Seized	
Securities Account	955,766.32	Seized	
Securities Account	188,939.11	Seized/Litigation	50% Marital Asset subject to litigation
Life Insurance	80,498.82		F/B/O Mrs. Finazzo
2006 Nissan ³	4,771.00		
2008 Ford	10,259.00		
49 Chestnut Street ⁴	549,260.00		50% Marital Asset
12417 9 th Ave	261,132.00		50% Marital Asset inhabited by Mrs. Finazzo's parents
20675 Soundview	163,681.25		25% owned/partial marital asset
Condominium ⁵	225,000.00	Litigation	50% Marital Asset subject to litigation
Watch	5,000.00		
Cash	1,000.00		
Tax Refund	836,149.33	Seized/Litigation	50% Marital Asset subject to litigation
Vertical Line	756,456.14	Seized	50% owned with Douglas Dey
Vertical Line II	1,494,119.00	Seized	50% owned with Douglas Dey
Vertical Line III	783,756.50	Seized	50% owned with Douglas Dey
Total	\$7,073,279.32		

5. The government has seized, or is in the process of seizing, the sum of \$5,737,257.62. After seizure, Mr. Finazzo owns or will own \$1,336,021.70 in assets, consisting

¹ With respect to jointly owned assets, only Mr. Finazzo's aliquot share is listed.

² Mrs. Annette Finazzo has asserted a claim to certain assets pursuant to 21 U.S.C. § 853(n), and 18 U.S.C. § 983(f). The assets being contested are indicated by the "Litigation" status in this column, and Mr. Finazzo's interest is calculated at one-half of the total asset.

³ We have adopted the Probation Department's proposed values for the two automobiles.

⁴ We have adopted the Probation Department's proposed fair market values for the three real estate properties located at 49 Chestnut Street; 12417 9th Avenue; and 20675 Soundview; however, we have modified these figures as indicated to reflect Mr. Finazzo's limited ownership interest in each of the properties.

⁵ In connection with the corresponding litigation relating to Mrs. Finazzo's ownership interest in the marital properties we have obtained listings for several comparable condominium units and have adjusted the fair market value of the condominium accordingly.

mostly of his marital residence, a residence he owns with Mrs. Finazzo at which Mrs. Finazzo's elderly parents reside, and two other jointly owned real properties. Mr. Finazzo's liabilities total \$1,434,749.55, consisting of \$1,135,784.71 in mortgages, miscellaneous liabilities of \$127,964.84⁶ and a debt to Carter Ledyard & Milburn LLP which has yet to be quantified, but which is currently calculated to be in excess of \$171,000. Thus, applying a simple balance sheet test, Mr. Finazzo is bankrupt.

6. The Probation Department has inflated Mr. Finazzo's assets by double-counting some of his business holdings. Under "Business Holdings," the Probation Department indicates that Mr. Finazzo owns a 50% interest in three businesses: 1) South Bay Sportsplex (with an unknown market value); 2) Vertical Line Apparel I, Inc. (with a market value of \$3,000,000); and 3) Vertical Line Apparel II, Inc. (with a market value of \$3,451,324). However, in the very next section entitled "Assets You Will Liquidate" the Probation Department lists the funds Mr. Finazzo received from the sale of the assets of Vertical Line Apparel I and Vertical Line Apparel II, which have been seized by the United States Marshals Service.

7. The Probation Department also inflated Mr. Finazzo's assets by failing to account for assets which he owns jointly with his wife, Annette Finazzo. Under "Real Estate," the Probation Department indicates that Mr. Finazzo owns four properties located at the following addresses: 1) 49 Chestnut Street; 2) 12417 9th Avenue; 3) 20675 Soundview Avenue; and 4) a condominium at the Reef Atlantis Bahamas. Although the Probation Department correctly notes that Mr. Finazzo only maintains a 25% interest in the Soundview Avenue property, it fails to note that the other properties are all owned jointly by Mr. Finazzo and his

⁶ Since the filing of Mr. Finazzo's initial objections, his outstanding debt to Margolin, Winer & Evens LLP has increased and is now \$108,904.00, additionally, Mr. Finazzo has consolidated his credit card debt and now owes a total of \$19,060.84 to Bank of America.

wife. Accordingly, only 50% of the value of these properties should be considered in determining Mr. Finazzo's financial condition.

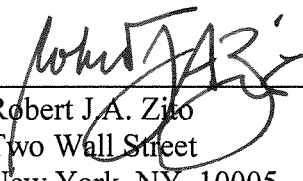
8. In addition, while the Probation Department asserts that Mr. Finazzo has free cash flow of \$940 per month to make further forfeiture payments, its calculation does not take into account the payment of federal, state, and local income taxes, as well as real estate taxes. After taxes, Mr. Finazzo has a negative cash flow.

Dated: New York, New York
May 7, 2014

Respectfully submitted,

CARTER LEDYARD & MILBURN LLP

By: _____


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CHRISTOPHER FINAZZO and	:	
DOUGLAS DEY,	:	
	:	
Defendants.	:	
-----	X	

CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2014, the foregoing Objection to Third Addendum to Presentence Report of Christopher Finazzo was filed with the Clerk of the Court and served via e-mail in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service upon the following parties and participants:

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